

California Department of Corrections and Rehabilitation

Financial Information Memo

SUBJECT:

**PERSONAL USE OF QUALIFIED
LAW ENFORCEMENT VEHICLES**

FIM NUMBER:

2005-09

REFERENCES:

**Internal Revenue Service Regulation 1.274-5T(k)
Replaces FIM 2004-04, Dated 4/19/04 and
FIM 2000-10, Dated 11/2/00**

DATE: July 22, 2005

DISTRIBUTION

Law Enforcement and Investigations Unit
Parole and Community Services Division
Institutions Division
Office of Investigative Services

PURPOSE

The purpose of this Financial Information Memorandum is to clarify the circumstance under which personal use of a State vehicle is reportable as a taxable benefit. In March 2005, as required by California Government Code, Section 8542 et seq., the Bureau of State Audits presented its audit report concerning their review of the State of California's internal controls and compliance with State and federal laws and regulations for the year ended June 30, 2004. During the review, it was determined that California Department of Corrections and Rehabilitation (CDCR) did not always ensure that the personal use of State vehicles was reported to the State Controller's Office.

BACKGROUND

The review found that CDCR had not fully documented the actual "facts and circumstances" of the daily travel of any of the agents who were audited. According to the Bureau of State Audits, State Controller's Office Payroll Procedures Manual and Internal Revenue Service Regulations, in order for the use to qualify as exempt, specific conditions must be satisfied and documented by actual "facts and circumstances." For unmarked law enforcement vehicles to qualify, any personal use must be both authorized by the federal, State, county or local governmental agency or department that owns or leases the vehicle and employs the Officer, and "must be incident to law enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation." When an employee drives from home to an incident, it must be documented in order to qualify as exempt.

DISCUSSION

The value of all personal use of State vehicles (unless an exception is noted in the Payroll Procedures Manual Section N129.1.3) is taxable and must be reported to the State Controller's Office using Special Valuation Rules. Personal use includes miscellaneous non-business trips, daily work commutes, etc. Commutes include trips from home to headquarters/regular office and/or headquarters/regular office to

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home. If an employee routinely works at the same multiple sites, the commute to each of those sites and/or back home again is also a personal commute. If the employee was required to stop at an incident on the way from home to work, the “facts and circumstances” must be documented to be exempt. If the employee commutes from their headquarters to home on that same day, the commute home must be reported as personal use of a State vehicle. Use of an unmarked vehicle for vacation or recreation trips cannot qualify as an authorized use. Employers must apply “facts and circumstances” on a case-by-case basis to determine “taxable personal use.” Internal Revenue Service Regulation 1.274-5T (k), Title 26, volume 3 and State Controller’s Office Payroll Procedures Manual, Sections N120 through N176, provide procedures for reporting to the Controller’s Office taxable fringe benefits. More information is available on the respective websites: <http://www.sco.ca.gov/ppsd/ppm/ppm-full.pdf> <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>

ACTION REQUIRED

To ensure compliance with Internal Revenue Service Regulations, Bureau of State Audits requires each employee, when using a State vehicle, to document actual “facts and circumstances” that qualify as exempt, non-personal use on a Travel Log, Std 273. The log is to be maintained by the employee and approved by the supervisor monthly. All use of a State vehicle that is not incident to a stakeout or surveillance site, or to an emergency situation must be reported on a Personal Use of State Provided Vehicle Employee Certification Form, [CDC 1804](#). The CDC 1804, along with the Supervisor Approved Travel Log, [Std 273](#), are to be sent to Central Valley Regional Accounting Office, P.O. Box 4147, Stockton, CA 95204-0147. These forms can be located at: [CDC1804](#) and <http://www.documents.dgs.ca.gov/osp/pdf/std273.pdf>

If you have questions or need further assistance concerning this Financial Information Memorandum, please contact the Headquarters Accounting Services Section, Cindy Perez, Accounting Administrator I, at (916) 323-3583, or Yvonne Scott, Accounting Administrator II, at (916) 327-1731.

Original Signed By:

WILLIAM B. DOUGHTERY, Chief
Accounting Services

Attachments

cc: Regional Accounting Offices
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Cindy Perez, Headquarters Accounting Services Section